The Registry of the Competition Tribunal

2008–09

Departmental Performance Report

Tony Clement
Minister of Industry

TABLE OF CONTENTS

MINISTER'S MESSAGE 5

SECTION I: DEPARTMENTAL OVERVIEW 8

Raison d'être 9
Responsibilities 9
Program Activity Architecture 10
Summary of Performance 11
Risk Analysis 15
Expenditure Profile 15

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME 17

Strategic Outcome 18
Program Activity by Strategic Outcome 18
Benefits for Canadians 19
Performance Analysis 19
Lessons Learned 20

SECTION III: SUPPLEMENTARY INFORMATION 21

Financial Highlights 22
Financial Statements 22
Registry of the Competition Tribunal 23

MINISTER'S MESSAGE

The past year has been a challenging one for the Canadian economy, as it has been for the economies of all industrialized countries. The global economic crisis put the fiscal and economic frameworks of all countries to the test. But Canada entered the recession with solid fundamentals — balanced budgets, decreasing debt and taxes, a strong financial sector and robust economic policies. Consequently, Canada is in a comparatively good position to effectively respond to this time of economic challenge.

The Industry Portfolio played a significant role in developing Canada's resiliency and ability to weather the current crisis. Composed of 11 departments, agencies, Crown corporations and quasi-judicial bodies, the Portfolio includes major instruments in the Government of Canada's tool kit for building a competitive economy.

In 2008–09, such measures included continued support for the Registry of the Competition Tribunal, a strictly adjudicative body that operates independently of any government department and hears cases dealing with matters such as mergers, misleading advertising and restrictive trade practices.

In January 2009, the government introduced Canada's Economic Action Plan, which contained stimulative measures to respond to the global recession. Industry Portfolio members played, and will continue to play, a central role in developing and implementing a significant number of these critical initiatives. These measures range from programs to upgrade research infrastructure at Canada's universities and colleges, to helping small businesses bring innovative products to market, to supporting major tourism events, to enhancing community and recreational facilities and other municipal infrastructure in Ontario. For more information, visit the Canada's Economic Action Plan website.

As a country, we are emerging from the recession by creating a climate that encourages innovation, productivity and competitiveness — helping Canadian industry move to the forefront of the global knowledge economy. The Industry Portfolio members, and other federal departments and agencies are working in partnership so that Canada continues to enjoy a high standard of living and a prosperous future.

It is my pleasure to present the Registry of the Competition Tribunal's Performance Report for 2008–09.

Tony Clement
Minister of Industry

SECTION I: DEPARTMENTAL OVERVIEW

Raison d'être

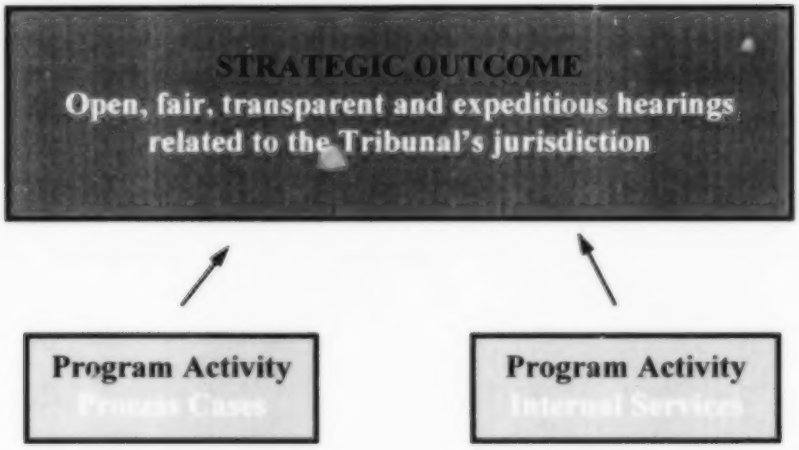
The Registry of the Competition Tribunal provides the administrative infrastructure to support the proper conduct of the business of the Competition Tribunal. The Competition Tribunal is a quasi-judicial adjudicative tribunal whose sole purpose is to hear and decide all applications related to civil reviewable matters set out in Part VII.1 (Deceptive Marketing Practices) and Part VIII (Reviewable Matters) of the *Competition Act*. The purpose of this legislation is to maintain and encourage competition in Canada and to provide a fair and secure marketplace for Canadians. The Tribunal operates at arm's length from government and its departments. The *Competition Tribunal Act* establishes both the Tribunal and the Registry.

Responsibilities

The Registry of the Competition Tribunal is designated a department under the *Financial Administration Act*. It provides the administrative infrastructure to support the proper conduct of the business of the Competition Tribunal, supporting all aspects to the Tribunal's work and ensuring the Tribunal can hold hearings anywhere in Canada, as necessary. The Registry and the Tribunal operate at arm's length from government and its departments and were established by the *Competition Tribunal Act*. Registry headquarters are located in the National Capital Region. Parties to Tribunal cases file applications and documents with the Registry; the Registry also issues documents and orders for all cases brought before the Tribunal. This Departmental Performance Report pertains to the activities of the Registry in support of the Tribunal and its deliberations, and not to Tribunal cases themselves.

Since its creation in 1986, the Registry has provided support to the Tribunal in processing cases relating to mergers, abuse of dominant position and various trade practices that have involved key players in several industries. Cases have involved a number of business areas, including pharmacies; furniture stores; importers of cast iron pipes; airline computer reservation systems; oil refining and gasoline retailing; community newspapers; aspartame; waste disposal; car parts; marketing research services; green handling services; weight-loss products and fuel-saving devices.

Program Activity Architecture



Process Cases

The Registry of the Competition Tribunal's main program activity is to process cases by providing the public with efficient access to case documents and decisions, as well as with efficient hearing support services.

The Tribunal hears cases and the Registry manages the material for the cases heard by the Tribunal under Part VII.1 (Deceptive Marketing Practices) and Part VIII (Reviewable Matters) of the *Competition Act*.

Internal Services

Internal Services is an umbrella term for activities under the Registry's administration that meet program needs and other corporate obligations. These activities are: management and oversight services; communications services; legal services; human resources management services; financial management services; information management services; information technology services; real property services; material services; acquisition services; and travel and other administrative services.

Summary of Performance

2008–09 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
$1,699	$2,107	$1,691

2008–09 Human Resources (FTEs)

Planned	Actual	Difference
14 FTEs	11 FTEs	3 FTEs

The difference is mainly caused by staff turnover. As a micro-agency, the Registry can offer only limited development opportunities within its organization.

Performance Summary

Strategic Outcome 1: Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.		
Performance Indicators	**Targets**	**2008–09 Performance**
Client level of satisfaction regarding quality of service	80% or more clients are satisfied with service received from the Registry	Based on feedback received through our website, 82% of respondents were satisfied with our services. From the questionnaires sent to the parties that have had their case heard during this fiscal year, more than 92% of clients are very satisfied with the service received from the Registry.
Tribunal members' level of satisfaction regarding quality of service	80% or more of Tribunal members are satisfied with service received from the Registry	The Tribunal members' level of satisfaction reached 90% in 2008-09. Their feedback was obtained on the quality of services provided by the Registry throughout a hearing life cycle, on organization of the members' continuous learning program, and to a lesser extent, on various ad hoc services provided to members.

Program Activity	2007–08 Actual Spending (thousands of dollars)	2008–09				Alignment to Government of Canada Outcomes
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
		(thousands of dollars)				
Process Cases	$1,698	$1,328	$1,328	$1,628	$1,233	This program activity links to the Economic Affairs sector of activity of the Government of Canada, particularly the outcome area of a fair and secure marketplace.
Internal Services	N/A	$371	$371	$479	$470	
Total	$1,698	$1,699	$1,699	$2,107	$1,691	

Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Status	Linkages to Strategic Outcome
Improving Client Service	• Previously committed to	Successfully met The feedback received from our internal and external clients has been very good and shows that the Registry is meeting their expectations.	• Open, fair, transparent and expdeditious hearings related to the Tribunal's jurisdiction. The results obtained on this operational priority is a good measure of the Registry's main program activity of providing support services to process cases.
Modernizing technology and processes	• New	Successfully met The introduction of digital recording of hearings will increase the accessibility of the public to the content of hearing room proceedings. The new Rules of Procedure request that the parties submit their documents electronically. This alleviates the requirements of the parties to submit multiple copies of documents.	• Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction. Pursuing this priority contributed to the efficient access to case records as well as efficient hearing support services provided to the Tribunal and to the the parties.
Providing legal support to the Tribunal processes	• New	Successfully met The new Rules of Procedure decrease the paper burden imposed on the parties appearing before the Tribunal. The communication strategies for the smooth implementation of the new Rules have been implemented. Implementation of the new Rules also included the training of Registry staff.	• Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction. This priortiy fully supports the Registry's program activity of processing cases by increasing the efficient submission and access to case records by the parties.

Management Priorities	Type	Status	Linkages to Strategic Outcome
Improving Management Practices	• Previously committed to	Successfully met Develop a partnership with the Public Servants Disclosure Protection Tribunal to share financial services and information technology services. The corporate risk profile of the organization has been reviewed and updated.	• Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction. This managemt priorty is in full support of the internal services program activity. The partnership with the other tribunal ensures that both organizations have access to financial and information technology expertise. Public funds are maximized even in an environment of varying workload .
Focus on employee learning and development	• Previously committed to	Successfully met Financial resources committed to employee learning were increased to provide more developmental opportunities to staff. All employees had an approved learning and development plan.	• Open, fair, transparent and expeditious herings related to the Tribunal's jurisdiction. This priority fully supports the internal services program activity of the Registry as well as the public service priority of developing and retaining our employees.

Risk Analysis

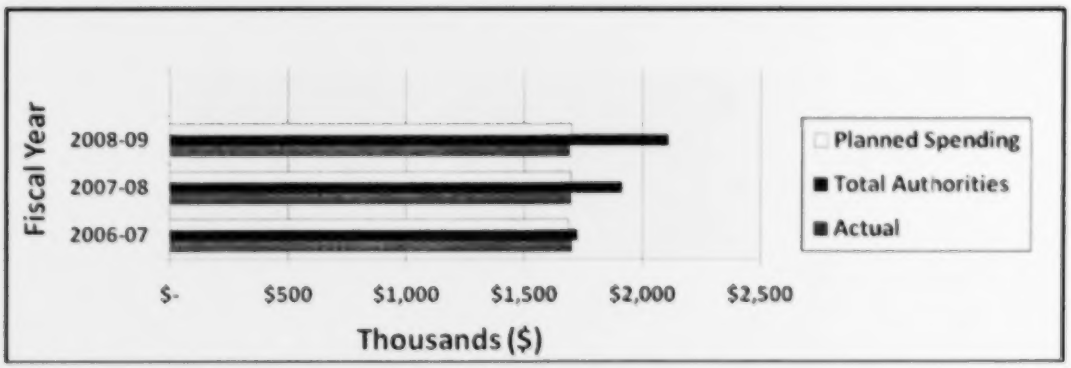
The Registry of the Competition Tribunal has a major planning challenge in that the Tribunal can only react to external demands. Its sole function is hearing references and applications and issuing orders, and the number of applications brought before the Tribunal depends on the enforcement policy adopted by the Commissioner of Competition and the number of applications filed by individuals or companies under the private access provisions of the Act.

With "Improving Client Service" being a key operational priority for the Registry it was important to look at alternatives to ensure an adequate level of resources would be available to process cases. A review of our organizational structure was initiated and a partnership was developed with the Public Servants Disclosure Protection Tribunal to provide additional capacity to be channelled in the processing of cases as necessary.

The demand for services from the Registry has remained relatively stable. The Registry has been allotted an increase in its reference level to effectively manage its existing workload, as well as the anticipated increase in cases generated from the additional jurisdiction given to the Tribunal in the 2009 federal budget.

The Registry has experienced a high turnover of staff in recent years and, as in any micro-agency, succession planning for specialized positions is an issue. To mitigate the impact of a sudden departure of an employee with unique responsibilities, a back-up strategy was developed and implemented for every position. Training was provided to some employees to ensure they had the knowledge and abilities required to fulfil their new responsibilities if and when required to take on additional workload. Other initiatives, such as more flexible working arrangements, a partnership with the Public Servants Disclosure Protection Tribunal Canada for job sharing and talent management, and integrating summer students on a part-time basis, have been actively pursued.

Expenditure Profile



(in thousands of dollars)	2006-07	2007-08	2008-09
Estimates	$1,686	$1,696	$1,699
Planned	$1,686	$1,696	$1,699
Authorized	$1,722	$1,911	$2,107
Actual	$1,701	$1,698	$1,691

The number of cases filed at the Tribunal has remained fairly stable over the last few years. To ensure the Registry can maintain its current level of service and in anticipation of additional cases due to an increase in the jurisdiction of the Tribunal, more resources were allocated to the Registry. *Bill 10 – An Act to implement certain provisions of the budget tabled in Parliament on January 27, 2009 and related fiscal measures* introduced significant amendments to the *Competition Act*. Some portions affect directly the work of the Competition Tribunal. For example, the administrative monetary penalties for deceptive marketing practices have been increased significantly. The possibility of restitution in cases of false or misleading representations to the public was introduced. The Act also repealed the criminal provisions dealing with price discrimination, predatory pricing and price maintenance. It introduced a new civil provision to address price maintenance practices that have an adverse effect on competition. These cases will now be heard by the Tribunal.

Voted and Statutory Items
(thousands of dollars)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2006–07 Actual Spending	2007–08 Actual Spending	2008–09 Main Estimates	2008–09 Actual Spending
1	Operating expenditures	$1,524	$1,537	$1,546	$1,566
(S)	Contributions to employee benefit plans	$177	$161	$153	$125
	Total	$1,701	$1,698	$1,699	$1,691

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

The Registry of the Competition Tribunal provides all administrative support required for the proper conduct of the Competition Tribunal's business and for the Tribunal to hold hearings anywhere in Canada.

Program Activity by Strategic Outcome

Program Activity: Process Cases

2008–09 Financial Resources (thousands of dollars)			2008–09 Human Resources (FTEs)		
Planned Spending	**Total Authorities**	**Actual Spending**	**Planned**	**Actual**	**Difference**
$1,328	$1,628	$1,233	9 FTEs	6.75 FTEs	2.25 FTEs

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
High-quality Registry services providing the public efficient access to case records and decisions.	Case documents and decisions posted on website.	90% of case documents and decisions posted on the website within 48 hours of filing.	Met all	Most documents (75%) are posted on the website within 24 hours of filing and 90% of them were posted within the 48-hour target.
Efficient case processing and hearing services.	Documents processed within established timeframes.	100% of case documents processed within established timeframes.	Mostly met	The training provided to Registry staff contributed to expedite the processing of documents.
	Percentage increase in use of electronic hearings.	25% increase in the use of the electronic hearing system		The types of cases heard by the Tribunal were not cases that could have efficiently been processed electronically. Future hearings will proceed electronically unless directed otherwise by the Tribunal.

Program Activity: Internal Services					
2008–09 Financial Resources (thousands of dollars)			2008–09 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
$371	$479	$470	5 FTEs	3.75 FTEs	1.25 FTEs

As a micro-agency, the Registry of the Competition Tribunal can offer only limited development opportunities within its organization and so has experienced a high turnover in recent years.

The small size of the organization combined with its fluctuating workload causes challenges atypical of large organizations. To maintain an optimum level of service, the Registry must contract out many services, such as staffing, compensation and financial systems, from large organizations. The Registry implemented long-term asset replacement plan to ensure it continues to have the infrastructure it needs to support the work of the Tribunal as expeditiously as possible. A number of internal policies were updated in line with changes resulting from Treasury Board's work to reduce the web of rules.

Benefits for Canadians

By supporting the Tribunal in its conduct of open, fair, transparent and expeditious hearings, the Registry of the Competition Tribunal contributes to the Government of Canada outcome area of a fair and secure marketplace. Conducting proceedings in a timely manner is key to Canadian businesses to stay competitive. The outcomes of Tribunal proceedings may be felt by all Canadians because the decisions help promote the efficiency and adaptability of the Canadian economy on issues related to the Tribunal's jurisdiction.

Performance Analysis

Program Activity: *Process Cases*

The Registry of the Competition Tribunal does not have control over the number of proceedings filed. It can only react to the number of applications filed by the parties. There was a small increase in the number of filings in 2008–09 compared with 2007–08 but overall there were no major fluctuations between the two years. One proceeding was ongoing at the end of this fiscal year that will be completed in 2009–10.

Number of Proceedings

	2007–08	2008–09
Number of proceedings filed	8	**11**
Number of proceedings completed	10	**12**
Number of proceedings filed from previous year and still ongoing	4	**1**
Number of decisions rendered	28	**32**

The new Rules of Procedure decrease the paper burden of parties appearing before the Tribunal.

Program Activity: *Internal Services*

The turnover rate of employees was lower than last year, providing for better continuity and enabling the organization to update some of its policies and procedures, as well as allowing the allocation of more resources toward employee development. Learning plans were developed for every employee and financial resources were committed to support the developmental objectives of all staff.

The Corporate Risk profile of the organization was reviewed and updated and strategies to mitigate risk were developed.

Lessons Learned

The number of documents filed through our website-based e-filing system has decreased slightly. The e-filing system is working properly but the parties seem to prefer to communicate with the Registry by regular email when security and size limitations permit. Additional work will have to be done to ensure the parties are aware of the additional security provided by the e-filing system, as well as the system's capacity to handle much larger documents than can be submitted by email.

The Registry of the Competition Tribunal web survey shows that most of the users visit the website to perform searches on case documents. This finding indicates the increasing importance for the Registry to post case documents on the website in a timely manner.

SECTION III: SUPPLEMENTARY INFORMATION

Financial Highlights

For the period ending March 31, 2009

Condensed Statement of Financial Position		Percentage Variance	(in thousands of dollars)	
			2009	2008
Assets	Total assets	116%	260	120
Liabilities	Total liabilities	4%	450	431
Equity	Total equity	39%	(190)	(311)

For the period ending March 31, 2009

Condensed Statement of Operations		Percentage Variance	(in thousands of dollars)	
			2009	2008
Expenses	Total expenses	(3%)	2,181	2,257
Revenues	Total revenues	%	0	0
Net cost of operations		(3%)	2,181	2,257

The amount reported under assets has increased due to an investment made by the organization in some components of its information technology infrastructure required to support the e-filing and e-hearing activities of the Tribunal. Leasehold improvements were also completed in the public area of the Tribunal. Total expenses are marginally lower than last year but they are in line with the level of complexity of the new cases received this year compared to last year.

Financial Statements

The following electronic link will bring you to the organization's financial statements available on the Registry of the Competition Tribunal website: http://www.ct-tc.gc.ca

Contact Information

Registry of the Competition Tribunal
600-90 Sparks Street
Ottawa, ON K1P 5B4

Deputy Head and Registrar: (613) 957-7851
Facsimile: (613) 957-3170
World Wide Web: *http://www.ct-tc.gc.ca*